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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,606	03/23/2004	Eiji Nakai	362-92	2455
33769 7590 06/09/2009 BODNER & O'ROURKE, LLP 425 BROADHOLLOW ROAD, SUITE 108 MELVILLE, NY 11747				
EXAMINER				
TEKLE, DANIEL T				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/806,606

**Applicant(s)**

NAKAI, EIJI

**Examiner**

DANIEL TEKLE

**Art Unit**

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Argument***

Applicant's arguments filed March 13, 2009 have been fully considered but they are not persuasive.

Applicant argument regarding claim 1 and 8:

1. Sakuramoto does not disclose a designator or controller 6 of sakuramote et al. is not similar to the claimed limitation of designator (applicant remark page 10 first paragraph). In response the examiner respectfully disagrees. The claimed limitation of designator means and Sakuramoto et al. invention of controller 6 have similar function (paragraph 0153 of Sakuramoto).

2. Sakuramoto et al. does not disclose the claimed limitation of "reference file and/or not a single data file" (applicant remark page 10 third paragraph). In response the examiner respectfully disagrees. Sakuramoto et al. discloses a recording/reproducing apparatus (paragraph 0153) for recording/reproducing video/audio digital data or MPEG -2 file according the instruction of controller 6 (paragraph 0096).

3. Sakuramoto et al. does not teach or suggest forming a plurality of data files as defined by claim 1 (applicant remark page 11 second paragraph). In response the examiner respectfully disagrees, since Sakuramoto et al. discloses plurality of audio/video data throughout the reference.

Applicant argument regarding claim 15 and 16:

1. Sakuramoto et al. does not teach or suggest to read a recording state from a recording state file, nor does it teach or suggest recording a current or past recoding state (applicant remark page 14 first paragraph with a new limitation added to the claim "holder replace by file"). In response the examiner respectfully disagrees. Sakuramoto et al. more than adequately support the claimed limitation of "current or past recoding state" means (paragraph 0094 and 0113). Therefore the rejection is stand as it is.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Sakuramoto et al. (US 2002/0126993).

**Regarding Claim 1:** Sakuramoto et al. discloses a content recording apparatus, comprising: a designator for designating in the order from a reference data file a plurality of data files (**paragraph 0011**); a data writer for writing content data into the data file designated by designator (**paragraph 0011**); an information writer for writing into a non-volatile storing area file information that identifies the data file designated by designator at each time that a designation of designator is updated, wherein reference

data file is a data file specified by the latest file information stored in non-volatile storing area (**paragraph 0011**).

**Regarding Claim 2:** Sakuramoto et al. discloses a content recording apparatus according to claim 1, further comprising: a marker writer for writing a marker into non-volatile storing area at a time of ending a writing operation by data writer (**paragraph 0011**); a determiner for determining whether or not marker exists in non-volatile storing area before starting the writing operation by data writer (**paragraph 0011**); a detector for detecting a data discontinued point from reference data file when a determination result of determiner is negative (**paragraph 0011**); and a determiner for determining a writing starting location on reference data file based on the data discontinued point detected by detector (**paragraph 0011**).

**Regarding Claim 3:** Sakuramoto et al. discloses a content recording apparatus according to claim 2, wherein content data includes moving image data having a plurality of frames of an image, and index data that manages each of plurality of frames, and each of plurality of data files includes a moving image file that stores moving image data, and an index file that stores index data (**paragraph 104-0113**).

**Regarding Claim 4:** Sakuramoto et al. discloses a content recording apparatus according to claim 3, wherein index data includes time information indicating a time at which each of plurality of frames of an image has been obtained, and detector detects data discontinued point based on time information (**paragraph 0092**).

**Regarding Claim 5:** Sakuramoto et al. discloses a content recording apparatus according to claim 2, wherein plurality of frames of an image include a first encoded

image to which an intra-encoding is applied, and a second encoded image to which an inter-encoding is applied, and determiner determines as writing starting location a location that precedes data discontinued point and in which first encoded image exists **(paragraph 0011 and 0096)**.

**Regarding Claim 6:** Sakuramoto et al. discloses a content recording apparatus according to claim 5, further comprising a buffer for temporarily holding content data prior to the writing operation by said data writer, wherein determiner determines writing starting location taking into consideration a capacity of buffer **(paragraph 0170)**.

**Regarding Claim 7:** Sakuramoto et al. discloses a content recording apparatus according to claim 1, wherein said plurality of data files have the same capacity to each other **(Fig. 3)**.

**Regarding Claim 8:** Claim 8 is rejected for same subject matter as claim 1.

**Regarding Claim 9:** Sakuramoto et al. discloses a content recording apparatus, comprising: a recorder for recording into a recording data file content data formed of a plurality of partial contents **(Fig. 2)**; a creator for creating within a reference data file index data including location information indicating a location of each of plurality of partial contents, and time information indicating a time at which each of said plurality of partial contents has been obtained **(paragraph 92 and 104-113)**; a detector for detecting a temporal discontinuing point of said index data based on time information before a recording operation by recorder is started **(paragraph 92 and 104-113)**; and a first determiner for determining a location of starting recording content data based on the temporal discontinuing point detected by detector **(paragraph 104-113)**.

**Regarding Claim 10:** Claim 10 is rejected for same subject matter as claim 2.

**Regarding Claim 11:** Sakuramoto et al. discloses a content recording apparatus according to claim 10, further comprising: an information writer for writing into non-volatile storing area location information indicating an ending location of recording operation (**paragraph 0033**); and a second determiner for determining a location for starting recording content data based on the location information written in non-volatile storing area when the determination result of determiner is affirmative (**paragraph 0033**).

**Regarding Claim 12:** Claim 12 is rejected for same subject matter as claim 5.

**Regarding Claim 13:** Sakuramoto et al. discloses a content recording apparatus according to claim 9, wherein a plurality of data files are formed in recording medium, and recorder sequentially records said content data into plurality of data files (**Fig. 3**).

**Regarding Claim 14:** Claim 14 is rejected for same subject matter as claim 9.

**Regarding Claim 15:** Sakuramoto et al. discloses a content recording apparatus, comprising: a recorder which cyclically records content data being encoded on a recording medium (**paragraph 0089**); a producer which in parallel with a recording of the content data by recorder and cyclically produces on recording medium index data having information for referring content data and time information (**paragraph 0104**); a recording state information file which holds state information that represents two states of a recording state and a record suspended state, when the recording of the content data is started in response to a record starting instruction, recording state being established, and when the recording of the content data is suspended in response to a

record suspending instruction, record suspended state being established (**paragraph 0094 and 0113**); a writing location memory which stores a writing location at a time that the recording is suspended by record suspending instruction (**paragraph 094**); a detector which detects a temporal discontinued point by scanning index data if state information is recording state after a power is turned on (**paragraph 0104**); a first setter which sets a first record starting location at a location corresponding to temporal discontinued point on the basis of index data of temporal discontinued point if temporal discontinued point is detected by said detector (**paragraph 094**); a first record starter which starts the recording of the content from first record starting location (**paragraph 094**); a second setter which sets a second record starting location at a location corresponding to writing location if state information is said recording state after a power is turned on (**paragraph 094**); and a second record starter which starts the recording of the content from said second record starting location in response to said record starting instruction (**paragraph 094**).

**Regarding Claim 16:** Sakuramoto et al. discloses a content recording apparatus according to claim 15, wherein content data includes at least an intra-encoded image obtained through an intra-encoding, and first setter sets a location of the intra-encoded image included in an image group in which temporal discontinued point is belonging as said first record starting location if an image corresponding to said temporal discontinued point is not the intra-encoded image (**paragraph 0159**).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL TEKLE whose telephone number is (571)270-1117. The examiner can normally be reached on 7:30am to 5:00pm M-R and 7:30-4:00 Every other Friday..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marsha D. Banks-Harold/  
Supervisory Patent Examiner, Art Unit 2621

/Daniel Tekle/  
Examiner, Art Unit 2621